

FILED

JUL 17 2002

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA**

MARK G. CHALPIN
14639 Good Hope Road
Silver Spring, MD 20920
(301) 384-8884 Plaintiff

v.

**U.S. DEPARTMENT OF VETERANS
AFFAIRS**

810 Vermont Avenue, N.W.
Washington, DC 20420
Defendant

CASE NUMBER 1:02CV01425

JUDGE: Emmet G. Sullivan

DECK TYPE: FOIA/Privacy Act

DATE STAMP: 07/17/2002

ECF

COMPLAINT

COMES NOW Plaintiff Mark G. Chalpin ("Chalpin"), *Pro Se*, and sues Defendant U.S. Department of Veterans Affairs ("VA") for improperly withholding and/or destroying certain VA records requested by Chalpin under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552.

1. Chalpin is an individual residing in the State of Maryland.
2. VA is a federal agency as defined in 5 U.S.C. § 552 and has its headquarters in Washington, D.C.
3. This Court has jurisdiction over this matter pursuant to 5 U.S.C. § 552 and 28 U.S.C. § 1331. Venue is appropriate under 28 U.S.C. § 1391(b).
4. On or about November 21, 2001, Chalpin requested the following records from VA pursuant to FOIA: 1) "Records of incoming and outgoing telephone calls to and from (202) 565-8130, (202) 565-8131, and (202) 565-7148 for June 10, 2001 through November 21, 2001"; and 2) "All non-federal government Internet sites visited for June 10, 2001 through November 21, 2001 from the computers in the offices of the following

employees of the VA Office of Small and Disadvantaged Business Utilization (00SB): Deborah Van Dover, Jim Jackson and Wayne Simpson.” (“Requested Records”)

5. On or about March 6, 2002, VA denied having the Requested Records and charged a fee of \$136.00 for processing Chalpin’s FOIA request.

6. On or about March 22, 2002, Chalpin appealed this denial to VA’s General Counsel on the basis that VA had denied his request in bad faith, the Requested Records either existed or had been destroyed to prevent their disclosure and/or production to Chalpin, and the \$136.00 processing charge was outrageous in view of VA’s bad faith.

7. On or about June 25, 2002, VA denied Chalpin’s appeal on the basis that VA did not have the Requested Records and stated that the \$136.00 processing fee would not be waived.

8. On information and belief, Chalpin alleges that VA has in its possession the Requested Records in their entirety or in part and/or that VA has destroyed the Requested Records in their entirety or in part to avoid disclosure and/or production to Chalpin.

9. VA has improperly withheld the Requested Records which are agency records under 5 U.S.C. § 552 from Chalpin in bad faith and has charged him \$136.00 for processing his FOIA request in bad faith.


WHEREFORE, Chalpin seeks the following relief against VA:

1) The Court order VA to disclose and/or produce to Chalpin the Requested Records still in existence;

2) The Court order VA to recreate, disclose and/or produce to Chalpin the Requested Records which it has destroyed;

- 3) The Court order that the \$136.00 processing fee is waived by VA;
- 4) Reasonable costs of this action; and
- 5) Such other relief as the Court deems just and proper.

Respectfully submitted,


MARK G. CHALPIN, *Pro Se*
14639 Good Hope Road
Silver Spring, MD 20905
(301) 384-8984